



October 8, 2009

WC Docket No. 08-71

Marlene Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street SW, Room TW-A306
Washington DC 20554

Karen Majcher
Vice President, High Cost Low Income Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington DC 20036

Re: Newly Designated ETC
Request for Waiver of Section 54.314(d)(6)

Dear Ms Dortch and Ms Majcher,

On July 24, 2009, CTC Telecom Inc dba Snake River PCS was granted CETC status by the Idaho Public Utilities Commission (IPUC). See the attached letter from the IPUC granting our request for CETC status.

CTC Telecom was told by the IPUC that we didn't need to file the Rural Use Certification since we'd just been granted CETC status. On September 30, 2009, CTC Telecom called the Universal Service Administrative Company to see what the status was regarding our Form 525's. We were told that in order to get distribution of funds we needed to have the Rural Use Certification in place. We subsequently contacted our FCC counsel and we determined that there is a 60 day certification filing time frame for newly designated ETC's which is found in Section 54.314(d)(6). The 60 day certification period expired on September 23, 2009. We acted promptly to file the 2010 certification by the October 1, 2009 filing deadline found in Section 54.314(d)(1).

We respectfully submit that the information relayed to us by the IPUC caused us to miss the 60 day certification filing window specified at Section 54.314(d)(6). Accordingly, we request a waiver of the 60 day certification filing period because we thought we could reasonably rely upon the information provided to us by our state telecommunications regulatory agency so that we can receive Interstate Common Line Support, High Cost Loop Support and Local Switching Support for that portion of 2009 following the July 24 grant of our ETC request. We have already invested sums to undertake, and we have plans to undertake further, significant service and infrastructure enhancements which have been budgeted with the assumption that 2009 funding would be available and our use of the 2009 funds will be limited to those uses. Our attorney has informed us that the Commission has granted a similar waiver request in the past when USAC misinformed an ETC about the newly designated ETC certification filing requirement. See *Sagebrush Cellular, Inc.*, 22 FCC Rcd. 15139 (WCB 2007).

Please consider this waiver due to the reasons stated above and rest assured that we will have future certifications filed in timely manner.

Regards,

Kristie Kanady
CTC Telecom
Snake River PCS
Billing Manager
(208)257-8234
kkanady@ctctele.com

cc: Idaho Public Utilities Commission
472 W. Washington, PO Box 83720
Boise, Idaho 83720-0074
Attn: Grace Seaman
(208)334-0352

Enclosure: Idaho Public Utilities Letter



**IDAHO
PUBLIC UTILITIES
Commission**

C.L. "Butch" Otter, Governor

P.O. Box 83720, Boise, Idaho 83720-0074

Jim D. Kempton, President
Marsha H. Smith, Commissioner
Mack A. Redford, Commissioner

September 30, 2009

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW—A306
Washington, DC 20554

Karen Majcher
Vice President, High Cost & Low Income Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

RE: CC Docket 96-45—State ETC Designation and Certification for Federal High Cost Support.

Dear Ms. Dortch and Ms. Majcher:

This letter is to inform you that on July 24, 2009, the Idaho Public Utilities Commission approved CTC Telecom, Inc's (CTC) application for ETC designation for purposes of federal universal support. Commission Order No. 30867 is attached along with Exhibit B1 of the CTC application that identifies all of the rural and non-rural wire centers approved by the Commission for ETC designation. All wire centers listed, *except Midvale*, are included in its entirety.

The approved ETC service areas include the entire study areas of each rural incumbent local exchange carrier. Thus, no redefinition of study areas is required.

In the ETC application and pursuant to Section 254(e), CTC states that the Company will use the high-cost support it receives to improve its infrastructure in rural areas.

Please contact me if you have any questions regarding CTC's ETC designation.

Sincerely,

Grace Seaman
Utilities Analyst
208.334.0352

Enclosure: Commission Order No. 30867
Exhibit B1

Located at 472 West Washington Street, Boise, Idaho 83702
Telephone: (208) 334-0300 Facsimile: (208) 334-3762

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)
OF CTC TELECOM, INC. FOR) CASE NO. CTL-T-09-01
DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER)
) ORDER NO. 30867
)

On April 23, 2009, CTC Telecom, Inc. ("CTC" or "Company") filed an Application, pursuant to Section 214(e)(1)-(2) of the Telecommunications Act of 1934, Sections 54.201 of the rules of the Federal Communications Commission ("FCC") and the rules and regulations of the Idaho Public Utilities Commission, for designation as an eligible telecommunications carrier ("ETC") for the purpose of receiving support from the Universal Service Fund ("USF"). *Application* at 1.

On May 29, 2009, the Commission issued a Notice of Application and Modified Procedure and established a 21-day comment period regarding CTC's Application. *See* Order No. 30824. Thereafter, Commission Staff was the only party to submit written comments within the established comment period.

THE APPLICATION

CTC, a wholly owned subsidiary of Cambridge Telephone Company ("Cambridge"), is a commercial mobile radio services ("CMRS") carrier marketing and selling its mobile wireless services under the brand name Snake River PCS. *Id.* at 2. The Company is licensed to provide telecommunications services in Basic Trading Area ("BTA") 050 in Idaho, including the following counties: Adams, Boise, Gem, and northern Washington. *Id.* The Company's proposed ETC service area includes, but is not limited to, the Idaho communities of New Meadows, Council, Indian Valley, Cambridge, Garden Valley, Horseshoe Bend, Idaho City and Lowman. *Id.*, Exhibit A.

The Application contains certain information related to CTC's voice grade access service, local usage plan, dual tone multi-frequency signaling, single party service, emergency services, operator services, interexchange (long-distance) services, directory assistance and toll limitation for qualifying low-income consumers. *Id.* at 5. Upon ETC certification, CTC will advertise its services in the media throughout its wireless service area. *Id.* at 11.

STAFF COMMENTS

Staff reviewed CTC's filing and recommended that the Commission approve the Company's Application pertaining to the non-rural wire centers within Qwest Corporation's ("Qwest") service area and all of the rural wire centers within Cambridge Telephone and Citizens Telecommunications' ("Citizens") service area. Staff Comments at 12. Staff further recommended that the Commission deny CTC's Application for the one rural wire center, Midvale, within Midvale Telecom's ("Midvale") service area. *Id.*

Staff reviewed CTC's Application to ensure compliance with the federal Telecommunications Act of 1996 ("the Act") and Commission Order No. 29841. *Id.* at 2. Staff asserted that granting ETC designation to more than one telecommunications carrier in non-rural service areas is consistent with the purposes of the Act and past Commission Orders. *Id.*; *See also* Order No. 29261. However, Staff noted that the Act treats ETC designation in rural areas differently, granting more discretion to State Commissions to determine whether multiple carriers in rural areas is "in the public interest." *Id.* at 3. Staff proceeded to analyze CTC's ETC designation request under the rubric described in Section 214 of the Act. *Id.* at 4.

Staff stated that CTC's proposal to serve only part of the service areas of incumbent local exchange carriers ("ILECs"), Citizens and Midvale, is problematic in that it does not "avoid the appearance of cream skimming," a deliberate practice of "targeting low cost areas and avoiding high cost areas." *Id.* at 6. Staff agrees that CTC "avoids the appearance of cream skimming in areas where the Application includes all wire centers in a designated service area." *Id.* at 8. Staff declared that the Company could remove the appearance of cream skimming by removing "the wire centers that represent partial service areas." *Id.* Staff cites the relatively minimal impact to the USF posed by CTC's Application and prior Commission and federal action granting ETC designation to numerous wireless service companies as support for a finding that CTC's designation as an ETC is in the public interest. *Id.*

Staff is satisfied that CTC meets the remaining statutory requirements for ETC designation as outlined in Order No. 29841. *Id.* at 9-10. Finally, Staff noted that denying CTC's Application would necessarily preclude rural customers from "receiving Idaho Telephone Service Assistance Program (ITSAP), federal Lifeline and Linkup support as well as other potential technological and safety benefits," even though the aforementioned benefits are currently "available to consumers through the ILECs." *Id.* at 11.

COMMISSION DISCUSSION AND FINDINGS

A. Non-Rural Wire Centers

We find that CTC meets the statutory requirements for ETC designation as set out in 47 U.S.C. § 214(e)(1) and Commission Order No. 29841. We recognize that the federal Telecommunications Act treats non-rural and rural service areas differently for the purposes of ETC designation. When a carrier meets the statutory requirements set out in § 214(e)(1) for a non-rural area served by an ILEC, the statute provides that the Commission shall designate more than one common carrier as an ETC. 47 U.S.C. § 214(e)(2). Accordingly, the Commission has routinely granted ETC designation to more than one carrier in non-rural service areas. *See* Order No. 30360.

We also find that designating CTC as an ETC in the requested non-rural service areas is consistent with “the public interest, convenience, and necessity” pursuant to § 214(e)(2). The Commission believes that granting ETC status to CTC will benefit consumers by offering services of another competitor and may be beneficial to eligible recipients of the Idaho Telephone Service Assistance Program (ITSAP) or Lifeline service. Consequently, we grant CTC’s Application for ETC designation for the non-rural wire centers disclosed in their Application.

B. Rural Wire Centers

CTC also seeks ETC designation for nine rural wire centers in central and southern Idaho. Our review of ETC requests for rural wire centers is more rigorous because, under 47 U.S.C. § 214(e)(2), ETC designation is not mandatory. We have held previously that companies seeking ETC designation in rural areas have the burden of demonstrating that the public interest would be served by granting their applications. *Id.* Merely asserting that granting the application will lead to increased competition in a particular service area is not enough, by itself, to warrant ETC designation in rural areas. Order No. 29841 at 4.

After reviewing CTC’s Application and Staff’s comments in the case, we find that CTC has satisfied the requirements for designation as an ETC carrier in eight of the nine rural wire centers outlined in the Company’s Application. We find that the public interest will be served by designating CTC as an additional ETC for the rural wire centers currently served by Cambridge Telephone Company and Citizens Telecommunications/Frontier Communications. Application at Exhibit B-1. Furthermore, we find that CTC has adequately demonstrated that the

Company: (1) is capable of providing the requisite services; (2) possesses a viable network improvement plan to provide service throughout its proposed service area; (3) has a local usage plan comparable to the relevant ILECs; (4) will be able to comply with applicable service and quality standards; and (5) is able to remain functional during emergencies. *See* Order No. 29841 at 21, Appendix 1.

The Commission finds that the prayed-for ETC designation for the rural wire center currently served by Midvale Telephone Exchange is not warranted because it represents only a partial service area. When an ETC applicant seeks "designation below the study level of a rural ILEC, . . . FCC Rules . . . require consideration of potential cream skimming effects." *Id.* at 5. In its Application, CTC declared that it is "not targeting low cost areas, or avoiding high cost areas, in order to 'cream skim' high cost support." Application at 16. The Commission appreciates the Company's stated commitment to serving all customers where it is licensed to provide its wireless services. *Id.* However, absent a compelling reason to deviate from its prior decisions on the matter, e.g., Citizens' decision to disaggregate its service area as directed by the Rural Task Force, *see* Staff Comments at 6, the Commission will continue to adhere to its custom of granting ETC status only for entire service or study areas. *See* Case No. EDG-T-07-01, Edge Wireless, LLC's Errata to Application and Exhibits.

ORDER

IT IS HEREBY ORDERED that the Application of CTC Telecom, Inc. for designation as an Eligible Telecommunications Carrier in the non-rural wire centers served by Qwest Corporation and disclosed in the Company's Application is approved.

IT IS FURTHER ORDERED that the Application of CTC Telecom, Inc. for designation as an Eligible Telecommunications Carrier in the rural wire centers served by Citizens Telecommunications/Frontier Communications and Cambridge Telephone Company is approved.

IT IS FURTHER ORDERED that the Application of CTC Telecom, Inc. for designation as an Eligible Telecommunications Carrier in the Midvale rural wire center served by Midvale Telephone Exchange is denied.

THIS IS A FINAL ORDER. Any person interested in the Order may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order. Within seven (7) days after any person has petitioned for

reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code § 61-626.*

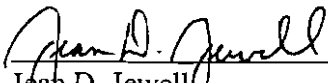
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 24th day of July 2009.


JIM D. KEMPTON, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


MACK A. REDFORD, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

O:CTL-T-09-01_np2